

Town of Loxahatchee Groves
Special Magistrate Hearing
Wednesday, January 11, 2012 at 10:00 a.m.
Palms West Chamber of Commerce

MINUTES

1. Call to Order

Special Magistrate William P. Doney called the meeting to order at 10:00 a.m. Present were Town Manager Mark Kutney, Town Clerk Janice M. Moore, Beverly Tew, President of Tew & Taylor, Inc., and Code Enforcement Officer, Russell Elgin.

2. Swearing In of All Witnesses – Special Magistrate Doney

3. Fine/Lien Certification

a. Case 2008-67 Town of Loxahatchee Groves Florida (Petitioner) vs. Magic Properties V, LLC (Continuance)

PCN: 41-41-43-17-01-510-0030

Location: 13710 Okeechobee Boulevard

Violation: Unified Land Development Code Article 4, Chapter A, Section 3A, Table 4.A.3.A-1, Chapter B Section 1A.77

Landscape Service Permitted in this Zoned Area Only in
Conjunction with a Retail or Wholesale Nursery

Ms. Tew provided an overview and update. She presented Exhibits 15-20 that were admitted into evidence by Special Magistrate Doney. Ms. Tew explained that as long the owner continued in good faith, she recommended continuance of the case for 90 days in order for the owner to obtain a site plan approval and to begin construction activity and/or to request rezoning.

Harold Worthington, representative of the owner, was present. David Covey, attorney for the owner, noted that an approved site plan is required in order for the property to come into compliance. The site plan process will require a public hearing and town council approval. Mr. Covey further noted that the owner has applied for a business license but the license will be held until the site plan is approved. Mr. Covey requested a 120 day continuance in order to address the above issues.

Ms. Tew noted no objection to the 120 days continuance and placing the fine on hold for 120 days as well. She explained that when the property is brought into compliance, she would have no problem with a request for a fine reduction.

Special Magistrate Doney's Findings: Enter an order providing that the matter is continued to the May meeting with notice to be given of the precise hearing date. No fine is currently levied, but the issue of a fine is reserved in the event the property is not brought into compliance in a timely fashion.

b. Case 2010-155 Town of Loxahatchee Groves Florida (Petitioner) vs. 1930 D Road, LLC

PCN: 41-40-43-13-00-000-5020

Location: 3130 162nd Drive N.

Violation: Unified Land Development Code Article 20: Residential Zoning Districts; Section 20-015; Article 80: Conditional Uses Section 80-55

Commercial Chipping & Mulching Including Sifting and Screening on Property Less Than 10 Acres

Violation: Unified Land Development Code Article 45: Property Maintenance; Section 45-010 (B)

Storage in Excess of three (3) Inoperable and Unregistered Vehicle and Other Junk Items

Violation: Unified Land Development Code Article 45: Property Maintenance; Section 45-010 (A)

Property Has Uncontained Litter, Garbage, Non-Vegetative Debris and Trash

Violation: Unified Land Development Code Article 20: Residential Zoning Districts; Section 20-020

Landscape Maintenance Operations Located on Property

Ms. Tew provided an overview and update. She presented Exhibits 1-5 that were admitted into evidence by Special Magistrate Doney. Code Enforcement Officer Elgin concurred with Ms. Tew's update.

Owner Pat Hastings provided a status report on the outstanding items. Ms. Tew reported on the positive progress the owner had made. Ms. Hastings spoke about the financial hardship regarding the cleanup of the property and requested withholding the fine.

Special Magistrate Doney's Findings: Enter an order of extension for compliance until January 17, 2012. Ruling concerning the assessment of a fine and imposition of the Town's costs will be determined at a hearing to be held on February 15, 2012 at 10:00 a.m.

6. Status Update – *(item was moved upon the agenda)*

**a. Case 2010-191 Town of Loxahatchee Groves Florida (Petitioner) vs.
Todd and Shire McLendon**

PCN: 41-41-43-17-01-332-0010

Location: 3481 D Road

Violation: Unified Land Development Code Article 80: Conditional
Uses; Section 80-50 Aviculture (B) (2)

Shelters, Cages, and or Accessory Structures Located
within Required Setbacks

Violation: Unified Land Development Code Article 80: Conditional
Uses; Section 80-50 Aviculture (B) (4)

Birds on Property that Excessively Screech, Chirp, Crow,
and Make Loud Noises

Ms. Tew reported that the owner came into compliance with Step 1: moving the cages on the west side of the property within the setback. Mr. Todd McClendon requested an extension of 30 days for Step 2: Two (2) months from November 22, 2011 to move the cages from the required setback on the remaining portions of the property.

Special Magistrate Doney's Findings: Enter an order acknowledging compliance with Step 1 and extending an additional 30 days for compliance on Step 2 until February 22nd.

4. Orders of Violation

**a. Case 2011-254 Town of Loxahatchee Groves Florida (Petitioner) vs.
Wells Fargo Bank NA**

PCN: 41-41-43-17-01-124-0030

Location: 3684 A Road

Violation: Unified Land Development Code Article 45: Property Maintenance; Section 45-010; and Article 50: Public Nuisances Section 50-015

Building Being Maintained in a State of Obvious Poor Repair. Additionally, Residence Unsecured and Poses Safety Hazard

Ms. Tew provided an overview. She presented Exhibits 1-8 & photographs of the property that were admitted into evidence by Special Magistrate Doney. No representative of the owner was present. Ms. Tew recommended compliance within the next 15 days.

Special Magistrate Doney's Findings: The Town proved violations of Section 45-010 and Section 50-015 through testimony and exhibits. An order finding violations and requiring compliance on or before January 26, 2012 will be entered. In the event of non-compliance, a fine not-to-exceed \$250 per day may be imposed. Ruling concerning the right to assess costs was reserved to a future hearing in the event that the property does not come into compliance in a timely fashion. The order will contain a provision in the event of non-compliance by January 26, 2012, a fine certification hearing will be held on February 15, 2012 at 10:00 a.m.

5. Fine Reduction Hearings

a. Case 2008-65 Town of Loxahatchee Groves Florida (Petitioner) vs. Antonio Alonso

PCN: 41-41-43-17-01-316-0170

Location: 2380 C Road

Violation: Chapter 14, Section 14-2, 14-31, 32, 35

Maintenance of Structures, Equipment and Exterior Property

Special Magistrate Doney noted that no representative of the owner was present. Ms. Tew provided a brief overview and noted that the property was not in compliance. She recommended not considering a fine reduction and moving forward with filing the fine certification with the PBC Clerk of Courts.


Special Magistrate Doney's Findings: Given that no one was present and that the property was not in compliance, the request for the fine reduction was denied without prejudice. The request may be renewed at a later date if there ultimately is compliance and a request for fine reduction is filed.

6. Adjournment

The meeting was adjourned at 11:10 a.m.


Janice M. Moore, Town Clerk

SEAL


William P. Doney, Special Magistrate

January 25, 2012
Date Signed